



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/405,520	09/23/1999	MICHAEL O'CONNOR	42390.P6898	9567

7590

12/03/2003

MICHAEL J MALLIE  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
7TH FLOOR  
12400 WILSHIRE BOULEVARD  
LOS ANGELES, CA 90025

EXAMINER

NALVEN, ANDREW L

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/405,520

Applicant(s)

O'CONNOR ET AL.

Examiner

Andrew Nalven

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-12, 14-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-12, 14-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. Claims 1-3, 5-6, 8-12, 14-17, and 19-20 are pending.

### ***Response to Arguments***

2. Applicant states Matchett fails to teach integrating samples of data collected over a period of time to create a second identity reference that will be used to replace or update a first identity reference. Examiner contends Matchett and Mukohzaka does teach a data compiler integrating samples of collected by a data collector collected over time to create a second identity reference and replace a first identity reference with a second identity reference to establish an updated first identity reference as defined in claims 1, 10, and 15. Matchett shows data collecting in "the recording of a particular user's relevant biometric characteristics" (column 4, lines 58-59) and the updating of a first identity reference with a second identity reference (Matchett, column 4 line 58 – column 5 line 7, column 6 lines 62-65, Figure 5). Matchett does not teach the integrating of samples of data collected over time to create a second identity reference. Examiner has relied upon Mukohzaka to teach the integrating of samples of data over time. Mukohzaka discloses the integration of several fingerprint samples over time to create a reference image (Mukohzaka, column 4 lines 33-62, column 8 line 63 – column 9 line 7, column 12 lines 41-48). Mukohzaka teaches that the integration of several samples improves accuracy (Mukohzaka, column 12, lines 46-48 and column 2 lines 36-41). Examiner contends that Mukohzaka does cure the defects of Matchett and

Art Unit: 2134

therefore the examiner maintains the rejection of Matchett and Mukohzaka that is given below.

***Rejection***

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6, 10-12, and 15-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett US Patent No. 5,229,764 in view of Mukohaka US Patent No. 5,910,999.

5. In regards to claims 1, 10, and 15, Matchett discloses an authentication process that provides "biometric checks of a user" (column 3, lines 18-19). Matchett shows data collecting in "the recording of a particular user's relevant biometric characteristics" (column 4, lines 58-59) and data matching through "the comparison of new biometric data to the user's reference biometric data" (column 4, lines 65-66). Matchett discloses a database to store a first identity reference (Figures 1 and 4). Matchett's disclosure outlined above does not include a system that integrates a plurality of biometric readings into a more concise reading. Mukohaka discloses a fingerprinting system on column 12 lines 41-48 that integrates samples of data into a combined reference filter

Art Unit: 2134

for use in authenticating users. The integration of several images into a combined filter provides a more accurate reference filter than that of a single image. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Mukohaka's integration method in order to reduce false rejection and false acceptance ratios.

6. In regards to claims 2, 11, and 16, Matchett teaches that the authentication process is made more secure by using "a plurality of biometric authentication devices" (column 4, lines 48-49). Further, Matchett discloses the storage of digital biometric data in a digital storage device in Figure 3.

7. In respect to claims 3, 12, and 17, Matchett discloses a data analyzer coupled to a database that receives second reference data and first reference data to be analyzed and presents a comparison result (column 6, lines 5-9).

8. In respect to claim 6, Matchett discloses that a particular embodiment of the instant invention "may be used to...protect access to a network" (column 8, lines 9-11).

9. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett US Patent No. 5,229,764 and Mukohaka US Patent No. 5,910,999, as applied to claims 3 and 15 above, and in further view of Bianco et al US Patent No. 6,256,737. Matchett and Mukohzaka as outlined above fails to teach a network-based database of biometric user identities. Bianco discloses a biometric authentication system geared towards enterprise networks that places user biometric data on a "biometric server" that stores the "collection of data required by the system to authenticate users" (column 2,

Art Unit: 2134

lines 57-58). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Bianco's network-based system as it would allow a group to deploy an authorization system across a wide geographic area.

**10.** Claims 5, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett US Patent No. 5,229,764 and Mukohaka US Patent No. 5,910,999, as applied to claims 3 and 17 above, and in further view of Dalude US Patent No. 6,310,966. Matchett and Mukohzaka fails to teach a system of embedding an identity reference into input data. Dalude shows a system wherein a first identity reference in the form of a digital certificate is attached to user data (column 3 lines 46-47). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Dalude's biometric digital certificates in order to allow verification of the source of user data transmitted across a network.

### ***Conclusion***

**11. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2134

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kinsella US Patent No. 6,148,094 discloses a pointing device with a built in biometric sensor. The device records fingerprint information passively in a manner similar to the instant invention's disclosure of a keyboard key in Figure 4.

13. Any inquiry regarding this communication from the examiner should be directed to Andrew Nalven at (703) 305-8407 during the hours of 7:15 AM – 4:45 PM Monday through Thursday. The examiner can also be reached on alternate Fridays.

In the event that attempts to reach the examiner are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703) 308 – 4789.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(703) 872-9306 (for formal communications intended for entry)

**Or:**

(703) 872-9306 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA 22202, Fourth Floor (Receptionist).

Art Unit: 2134

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Andrew Nalven

ALN

*Matthew A. Smithers*  
MATTHEW SMITHERS  
PRIMARY EXAMINER  
*Art Unit 2134*